1942 **File No.** O War Risks (Fact) Ince /42

Legal **DEPARTMENT**

"A" **BRANCH**

p 4 (E)

Subject:—

Opinions under the War Risks (Factories) Insurance Ordinance, 1942.

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Std. Sectt. Slip 24-B e.

437-A.

C O N T E N T S.

Legal Department file No. C. (War Risks(Fact) Insurance/42.

S.No.	Comp. No.	Subject.	pages.
		Opinions under the War Risks (Factories) Insurance Ordinance 1942.	
1)	No. 8870/30/C/42.	Whether every owner of a factory is liable to take out policies in respect of the factories under the proviso to section 3(1) of the Ordinance.	1-4.

Army Section.
T/C

C/C.

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3/1/5

Office of the A.L.A.

It appears that by G.O. (M.D., No. LIoo/39, dated the 10th October 1939 Government accorded sanction to the establishment of a finishing plant at Ahmednagar and directed that the finishing plant should be handed over to the District Industrial Co-operative Association, Ahmednagar for operation and management. Similarly by G.O. (R.D., No.6121, dated the 16th October 1941, Govt. sanctioned the establishment of another finishing plant at Hubli and handed it over to the District Industrial Co-operative Association, Hubli for operation and management The Hubli finishing plant is the property of Government, but the premises where the plants are housed are rented buildings. The director of Industries letter implied that these premises are factories within the meaning of section 2(j) of the Factories Act, 1934, and that is assumed to be a fact in this reference. The question for the consideration of the A.L.A's is whether owners occupiers of factories the District Industrial Co-operative Associations of Ahmednagar and Hubli are liable to take out policies in respect of the Factories under the proviso to section 5 (1) of the War Risks (Factories) Insurance Workmen Ordinance, 1940.

2. Section 5(1, of the War Risks Risks (Factories) Insurance Risks Workmen Ordinance, 1940, provides that ev[illegible] of a factory, except a factory belonging to the Govt. or a factory exempted under section 14 from the

the provisions of this Ordinance, shall be such date as may be specified in this behalf by the Central Government by notification in th Official Gazette take out a policy of insurance against war risks issued in accordance with the scheme whereby he is insured in respect of all property insruable under this ordinance which appertains to the factory for asum not less then the the insurable value of such property. "Owner" of a factory as defined in section 2(g) includes when parts of the property insurable under this ordinance in relation to the factory are owned by different persons, each such person in respect of the part owned by him. "Property insurable under this ordinance" as defined in section 2(i) means in relation to any factory, the factory buildings, all plant and machinery in the factory and such other platn and machinery as may be prescribed. The plant and Machinery in both the cases belong to Government and consequently they are not libale to be insured under section 5(1)

3. The next question for consideration is whether the buildings of these factories are liable to be insured and and if so who is liable to take out a policy of insurance in respect of them. The proviso to section 5(1) provides that where the owner of the factory is not himself the occupier of the factory, the occupier of the factory shall, unless the owner has already taken out a policy of insurance as required by this sub-section himself take out the policy and in such a case the occupier shall be deemed to act as the agent of the owner and shall be entitled to receive from the owner all sums paid as premiums on the policy. "Factory" as defined in section 2(bO means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 and includes premises including the precincts thereof which having at any time after the 31st day of December 1938 been a factory as defined in clause (j) of section 2 ofthe said Act have not been exempted under section 14 from the profisions of section 5 of this ordinance. "Factory buildings" as defined in section 2(c) includes all buildings comprised in the factory etc. "Occupier" of a factory means the person who hasultimate control over the affairs of the factory (see section 2(1) of the Factories Act) It would seem from

It would seem from G.R.R.D.No.1230/39, dated the 18th October 1939 that the person who has ultimate control is the Co-operative Association and not Government although the position regarding ultimate control is not made clear in that Government Resolution. The premises where the finishing plant are housed in both the cases are factory building, insurable under the ordinance. The District Industrial Co-operative Association of Ahmednagar and Hubli are not owners of the factory buildings; but they are occupiers. Consequently, they would, unless the owners have already taken out a policy, be liable to take out a policy as required by sub-section (1) or section 5; but they would be entitled to receive from the owners all sums paid as premiums on the policy under the proviso to sub-section(1) of section 5.

sd/- P.N.K.

Superintendent of Legal Affairs.

U. R. to R.D.No. 5280, dated the 20th June 1942.

Madhav Pochkanwala.

5/5. c/5.